

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FRANCO P. CERABONA, MD, and
ANDREW MEROLA, MD,

Plaintiffs,

-against-

MEDLINK SERVICES, INC.,
MEDLINK PARTNERS, LLC, AMRISH PATEL,
MALA PATEL, and HEMANSHU PATEL,

Defendants.
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: 19-CV-03119 (VSB)

: **ANSWER**

: **JURY TRIAL REQUESTED**

Defendants Mala Patel (“Mala”) and Medlink Services, Inc. (“Medlink Services”),
by and through their counsel Offit Kurman, P.A, for their Answer to the complaint of plaintiffs
Franco P. Cerabona, MD, and Andrew Merola, MD (the “Complaint”), allege as follows:

1. Deny having knowledge or information sufficient to form a belief as to the
truth of the allegation in paragraph 1 of the Complaint, and neither admit nor deny those portions
of the paragraph calling for legal conclusions for which no response is required.

2. Deny having knowledge or information sufficient to form a belief as to the
truth of the allegations contained in paragraph 2 of the Complaint, except admit and aver that
Mala is the owner of Medlink Services.

3. Deny having knowledge or information sufficient to form a belief as to the
truth of the allegations contained in paragraph 3 of the Complaint.

4. Deny having knowledge or information sufficient to form a belief as to the
truth of the allegations contained in paragraph 4 of the Complaint, except admit and aver that

Medlink Services was retained to bill insurance companies on the plaintiffs' behalf for their medical services.

5. Paragraph 5 of the Complaint states legal conclusion for which no response is required.

6. Paragraph 6 of the Complaint states legal conclusion for which no response is required.

7. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the Complaint.

8. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Complaint and respectfully refers the Court to the agreements and forms referenced therein for the contents thereof.

9. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the Complaint.

10. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the Complaint.

11. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of the Complaint.

12. Paragraph 12 of the Complaint states legal conclusion for which no response is required.

13. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of the Complaint.

14. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14 of the Complaint.

15. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the Complaint.

16. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of the Complaint.

17. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the Complaint.

18. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of the Complaint, except admit and aver that Medlink Services is a corporation formed under the laws of the State of New Jersey and maintained its principal place of business at 284B Main Street, Spotswood, New Jersey 08884.

19. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 19 of the Complaint, except admit and aver that Medlink Services is a medical billing company and that plaintiffs were Medlink Services' clients.

20. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 20 of the Complaint, except admit and aver that plaintiffs were Medlink Services' clients.

21. Paragraph 21 of the Complaint states legal conclusion for which no response is required. To the extent a response is required, deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 21 of the Complaint, except admit and aver that Medlink Services obtained a National Provider Identifier number.

22. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of the Complaint.

23. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of the Complaint.

24. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 24 of the Complaint.

25. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 25 of the Complaint.

26. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 26 of the Complaint.

27. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 27 of the Complaint.

28. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 28 of the Complaint.

29. Admit the allegations contained in paragraph 29 of the Complaint.

30. Admit the allegations contained in paragraph 30 of the Complaint.

31. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 31 of the Complaint.

32. Paragraph 32 of the Complaint states legal conclusion for which no response is required. To the extent a response is required, deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 32 of the Complaint.

33. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 33 of the Complaint.

34. Admit the allegations contained in paragraph 34 of the Complaint.

35. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 35 of the Complaint.

36. Deny the allegations contained in paragraph 36 of the Complaint.

37. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 37 of the Complaint.

38. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 38 of the Complaint.

39. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 39 of the Complaint.

40. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 40 of the Complaint.

41. Deny the allegations contained in paragraph 41 of the Complaint.

42. Deny the allegations contained in paragraph 42 of the Complaint.

43. Paragraph 43 of the Complaint states legal conclusion for which no response is required. To the extent a response is required, respectfully refer the Court to the text of statute for its content.

44. Paragraph 44 of the Complaint states legal conclusion for which no response is required. To the extent a response is required, respectfully refer the Court to the text of statute for its content.

45. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 45 of the Complaint.

46. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 46 of the Complaint.

47. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 47 of the Complaint.

48. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 48 of the Complaint.

49. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 49 of the Complaint and respectfully refer the Court to the text of the document for its content.

50. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 50 of the Complaint and respectfully refer the Court to the text of the document for its content.

51. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 51 of the Complaint, except admit and aver that plaintiffs retained Medlink Services for medical billing services.

52. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 52 of the Complaint and respectfully refer the Court to the text of the document for its content.

53. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 53 of the Complaint.

54. Deny the allegations contained in paragraph 54 of the Complaint.

55. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 55 of the Complaint.

56. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 56 of the Complaint and respectfully refer the Court to the text of the documents referenced therein for their content.

57. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 57 (and subparagraphs a-e) of the Complaint and respectfully refer the Court to the text of the documents referenced therein for their content.

58. In response to paragraph 58 of the Complaint, repeat and reallege each and every admission, denial, statement and averment contained in paragraphs 1 through 57 of this answer with the same force and effect as though here set forth in full.

59. Deny the allegations contained in paragraph 59 of the Complaint.

60. Deny the allegations contained in paragraph 60 of the Complaint.

61. Deny the allegations contained in paragraph 61 of the Complaint.

62. Deny the allegations contained in paragraph 62 of the Complaint.

63. Deny the allegations contained in paragraph 63 of the Complaint.

64. Deny the allegations contained in paragraph 64 of the Complaint.

65. Deny the allegations contained in paragraph 65 of the Complaint.

66. Deny the allegations contained in paragraph 66 of the Complaint.

67. In response to paragraph 67 of the Complaint, repeat and reallege each and every admission, denial, statement and averment contained in paragraphs 1 through 66 of this answer with the same force and effect as though here set forth in full.

68. Deny the allegations contained in paragraph 68 of the Complaint.

69. Deny the allegations contained in paragraph 69 of the Complaint.

70. Deny the allegations contained in paragraph 70 of the Complaint.

71. Deny the allegations contained in paragraph 71 of the Complaint.

72. Deny the allegations contained in paragraph 72 of the Complaint.

73. Deny the allegations contained in paragraph 73 of the Complaint.

74. In response to paragraph 74 of the Complaint, repeat and reallege each and every admission, denial, statement and averment contained in paragraphs 1 through 73 of this answer with the same force and effect as though here set forth in full.

75. Deny the allegations contained in paragraph 75 of the Complaint.

76. Deny the allegations contained in paragraph 76 of the Complaint.

77. Deny the allegations contained in paragraph 77 of the Complaint.

78. Deny the allegations contained in paragraph 78 of the Complaint.

79. Deny the allegations contained in paragraph 79 of the Complaint.

80. In response to paragraph 80 of the Complaint, repeat and reallege each and every admission, denial, statement and averment contained in paragraphs 1 through 79 of this answer with the same force and effect as though here set forth in full.

81. Deny the allegations contained in paragraph 81 of the Complaint.

82. Deny the allegations contained in paragraph 82 of the Complaint.

83. Deny the allegations contained in paragraph 83 of the Complaint.

84. Deny the allegations contained in paragraph 84 of the Complaint.

85. In response to paragraph 85 of the Complaint, repeat and reallege each and every admission, denial, statement and averment contained in paragraphs 1 through 84 of this answer with the same force and effect as though here set forth in full.

86. Deny the allegations contained in paragraph 86 of the Complaint.

87. Deny the allegations contained in paragraph 87 of the Complaint.

88. Deny the allegations contained in paragraph 88 of the Complaint.

89. Deny the allegations contained in paragraph 89 of the Complaint.

90. Deny the allegations contained in paragraph 90 of the Complaint.

91. Deny the allegations contained in paragraph 91 of the Complaint.

92. Deny the allegations contained in paragraph 92 of the Complaint.

93. Deny the allegations contained in paragraph 93 of the Complaint.

94. In response to paragraph 94 of the Complaint, repeat and reallege each and every admission, denial, statement and averment contained in paragraphs 1 through 93 of this answer with the same force and effect as though here set forth in full.

95. Deny the allegations contained in paragraph 95 of the Complaint.

96. Deny the allegations contained in paragraph 96 of the Complaint.

FIRST AFFIRMATIVE DEFENSE

97. The Complaint, in whole or in part, fails to state a cause of action for which relief can be granted and plaintiffs' claims must be dismissed as a matter of law.

SECOND AFFIRMATIVE DEFENSE

98. The Complaint fails to plead its allegations with the level of particularity required under the Federal Rules of Civil Procedure.

THIRD AFFIRMATIVE DEFENSE

99. Plaintiffs' claims are barred by the statute of limitations.

FOURTH AFFIRMATIVE DEFENSE

100. Plaintiffs' claims are barred, in whole or in part, from relief to the extent that plaintiffs failed to mitigate damages.

FIFTH AFFIRMATIVE DEFENSE

101. The Complaint fails to allege that Mala and Medlink Services acted with the required scienter.

SIXTH AFFIRMATIVE DEFENSE

102. Plaintiffs' claims are barred by the doctrine of waiver.

SEVENTH AFFIRMATIVE DEFENSE


103. The alleged injuries and damages of the plaintiffs, if any, were directly caused or contributed to by parties other than Mala or Medlink Services for which these answering defendant are not responsible, as a bar to plaintiffs' claims against defendants Mala and Medlink Services herein.

WHEREFORE, Defendants Mala and Medlink Services respectfully request that this Court:

- (a) Dismiss the Complaint in its entirety with prejudice;
- (b) Deny each and every prayer for relief set forth in Plaintiffs' Complaint;
and
- (c) Grant such other and further relief as the Court may deem just and proper.

Dated: New York, New York
May 29, 2019

OFFIT KURMAN, P.A.

By: 
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Attorneys for Defendants
Mala Patel and Medlink Services, Inc.

CERTIFICATE OF SERVICE

On May 29, 2019, I caused a true and correct copy of the foregoing Answer of Mala Patel and Medlink Services to be delivered to counsel of record for each party by electronic means via the Court's CM/ECF system.

s/ Wojciech Jackowski
Wojciech Jackowski